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Charles C. Arado

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VIGNETTES OF THE CRIMINAL LAW*

CHARLES C. ARADO†

A CONSPIRACY TO KILL FOR INSURANCE?

The defendant was charged with being an accomplice in the commission of murder. The man who actually did the slaying had pleaded guilty and was to appear as a witness for the state. Another defendant, Mrs. Ford, had likewise pleaded guilty and was also to testify for the prosecution. While the state's attorney was not legally permitted to guarantee that the death penalty would not be inflicted upon these two co-defendants he had doubtlessly assured them that he would not demand it in view of their cooperation in the case against the accused. The story which the state presented to the jury was as follows:

Mrs. Ford was a nurse. For a period of a year she had been accustomed to tell her husband that she had to work on cases throughout the week. She would spend only Sundays with him. As a matter of fact, she was living with another man during the balance of the week. Her paramour eventually gave evidence of tiring of her. She began to speak to the accused in regard to the matter of ridding herself of him. In the meantime, a life insurance policy of \$5,000 was taken upon his life. The policy was in favor of Mrs. Ford.

Mrs. Crane, on trial, confessed to bootlegging propensities. (This was in the prohibition era.) She was fifty years of age, stout, and careless in dress. Her co-defendant, Potter, worked as an aid in the rum-running. He had been arrested and charged with violating the Prohibition Act about six months before this homicide. Mrs. Ford intervened and spent \$150.00 in his defense. He naturally felt indebted to her for this service. Feeling that this was an opportunity for him to repay her, she mentioned the topic to Potter with a view of his slaying the victim. He finally agreed. The three defendants met and talked about the most efficient manner of handling the job. They decided upon calling the victim, a cabinet maker, on a pretense of having work to be done on a piece of furniture. This was satisfac-

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†Member of the Chicago Bar.

torily arranged. While he was stooping to look at it, Potter struck him over the head with an iron pipe. He was knocked unconscious, and soon afterwards died. Mrs. Ford and Mrs. Crane were on hand. The three of them discussed the best method of disposing of the body. The two women lifted the corpse on Potter's back. He carried it to a machine. The car was driven in an alley and the body thrown out.

In a few days the three defendants were arrested. None of them had been schooled in criminality. They were all poor, financially. The police officers worked upon the theory that the murder was committed to obtain the \$5000.00 of insurance money. It was not long before the captain of the local police station obtained signed confessions from Potter and Mrs. Ford. With respect to the poverty of the defendants, their crude method of collecting insurance money, and their low intellectual and moral standards, the case was typical.

Mrs. Crane did not make a written confession. She made many damaging admissions to the police upon her arrest, however. When the state endeavored to introduce evidence of these admissions, defense counsel objected on the ground that they were involuntarily made in response to third-degree tactics used by the police. The court granted a separate hearing upon the admissibility of these alleged incriminating statements. The police admitted that questions were asked throughout the night of her arrest. One of them testified that he did not leave her until seven o'clock the next morning. The police stated further that she had told them she was suffering from epileptic fits and they should be careful how they handled her. The matron who was with her at that time testified that in the rest room at the jail, the defendant suffered one of these fits and frothed at the mouth. Her body became rigid and the matron placed a large object in her mouth to keep the jaws from locking. The defendant took the stand and testified as to the length of time she was subjected to questioning without food, water, or sleep. She also testified as to false promises made by the police at this time. After a full hearing of the evidence on this question, the court granted the motion to exclude all the testimony relating to admissions made to the police immediately after her arrest. The judge stated that in his opinion the Supreme Court would reverse a conviction were the evidence of these admissions permitted to go to the jury.

When Mr. Ford, the husband of one of the co-indictees, was on the stand as a state witness, he told of his meeting Mrs. Crane after the homicide. She implored him to tear up a picture of herself and

Mrs. Ford sitting on a sofa. He related a conversation having to do with concealing additional information from the state. Defense counsel objected, saying, "The accused is not on trial as an accessory after the fact, which is a misdemeanor. This conversation does not have anything to do with the defendant's guilt or innocence of the crime charged in the indictment."

The court was careful to admit into evidence only those conversations which this witness had with his wife, in the presence of the defendant. The latter was the only one now on trial.

The court ruled on one occasion that all the conversation recounted by a witness was to be excluded, telling the state's attorney that until he had connected the matter and laid a proper foundation for it, such testimony was not admissible.

The slaying took place at the home of Mrs. Ford in Chicago. The defendant's son, sixteen years of age, testified that his mother was at home in Hooker, Indiana, on this night. He had left home to play basketball at six o'clock and returned at 9:30. He saw his mother when he left the house and when he returned to it. The prosecutor contended in his final argument that the boy's story was true but the mother's account of her movements was false. The state took the position that she came to Chicago, attended the slaying, and returned to her home in three hours.

On the witness stand Mrs. Crane appeared as the contented housewife. She had no personal charms to attract the jury unless it was her frequent broad smile as she met the insinuations of the state's attorney. She appeared to speak with an easy conscience. She was confident in her answers and never wavered. She was apparently satisfied with the outlook.

She must have thought that the jury was convinced that she had been but a friend of the two admitted slayers and that her only fault lay in her foolishness in sheltering them at her home after the homicide.

The prosecutor's closing words in his final argument were, "The defendant is an arch conspirator in the murder and you should return a verdict commensurate with the wickedness of the deed, a verdict of death."

The first defense attorney took the position that Mrs. Crane was an ordinary woman, no better and no worse than the average individual. She had acted foolishly in housing the slayers. Her offense, however, was committed in another state, and the courts of Illinois could not take cognizance of it. He submitted that Mrs. Crane and

her husband owned their own home and in addition thereto, personal property of considerable value. She therefore had no impelling motive to slay for the purpose of enriching herself with a few dollars of insurance money. A very striking argument was to the effect that no one had seen the defendant with Mrs. Ford from August 6th to the date of the slaying in December. He stressed the argument that the state had to rely on the testimony of two admitted murderers, arch fiends, for its conviction. They had every motive to lie to save their own necks. They felt that by implicating Mrs. Crane they could be of some service to the state. It would feel obligated to them to the extent of sparing their lives.

He maintained that there were witnesses who might have been of aid to the jury who were not called by the state. He continued, "While state's attorneys of different states may communicate with a view of assisting each other in securing the attendance of witnesses, a defending attorney has no such opportunity. His only means of securing the attendance of witnesses is to serve subpoenas upon them, but the service of an Illinois subpoena on an inhabitant of another state is of no avail. Such a resident need not answer the subpoena. In regard to the insurance policy taken out by Mrs. Ford upon the life of the deceased, without the latter having known of it, such a policy was void between the insurance company and Mrs. Ford. Inasmuch as it was a void policy the state should not be permitted to base an argument upon any relations Mrs. Crane had with it."

He referred to the Snyder-Gray Case of New York, saying that by reason of Potter admitting that he did not know why he perpetrated the deed, he may have been moved by a sex lure similar to that experienced by Gray at the behest of Mrs. Snyder. The prosecutor met this argument by asserting that the facts in the two cases were indeed similar. As the death penalty had been meted out by a jury in New York, so an Illinois jury should decree death, not only for the man but for the woman. Thus, the reference to the Snyder-Gray case proved a rather untimely move by the defense.

The concluding speaker for the defense was very demonstrative. He told the jury that, being a lawyer, he was not privileged to serve as a juror; that each of them was to consider it a high spot in his career to sit in judgment upon a fellow man; also, that their names would be written into the records of the Criminal Court where they would appear forever as a monument indicating noble service rendered their fellowman. He used a number of the stereotyped argu-

ments advanced in homicide cases. Frequently he used biblical and Shakespearian passages in his oratorical flights. He reminded one of the Southern lawyer who relies entirely upon oratorical power to win his cases. He was extremely confident and spoke with utter disdain in referring to the effort of the state's attorneys to secure a conviction.

Everything he said or did was picturesque. He undoubtedly felt he was moving the jury to his side of the case. They gave him marked attention.

One of the stock arguments he advanced was, "Would you employ the two fiends who testified in this trial against the defendant? Would you accept them into your home? After you have heard their story, would you believe them in a case where a woman's liberty or life depended upon the truthfulness of their statements?"

"If you must hesitate in arriving at your verdict as you would hesitate in reaching a conclusion in one of the graver transactions of your life, then you have a reasonable doubt as to her guilt.

"When I asked Mrs. Ford if she had ever expressed sorrow for what she had done she said that she had never uttered a word of penitence. You heard me ask her, 'Did you feel sorry for what you did?' Did her answer indicate sorrow?"

He cited the Maggio Case to show how the Supreme Court feels with reference to the testimony of accomplices.

"At one stage he exclaimed, 'I told the defendant not to talk to the police when she was at the station. That was my duty as her adviser. The police did not have a right to hold her in custody ten minutes. It is their duty to turn over an arrested person to the sheriff immediately upon arrest. A custom has grown whereby the police hold the defendant hours, days, and sometimes weeks before they turn him over to the sheriff. This is wrong. Were I to be in the same position again, I would give her the same advice. She was within her constitutional rights not to talk to the police.'

The jury was out less than two hours before they returned their verdict. On the first ballot the vote was guilty. In four ballots they agreed upon the punishment. The clerk read, "We, the jury, find the defendant guilty in manner and form as charged in the indictment and fix her penalty at DEATH."

She was the third woman in the history of Illinois to receive the death penalty. Neither of the two were hanged. The judgment in this case was reversed by the Supreme Court and she was never again tried for the murder.

SUMMARY

A woman on trial for murder guarantees an interesting psychological complex. In this case she did not possess the charm to assure her success. Although the state built its case upon the uncorroborated testimony of accomplices, the manner in which the killing was perpetrated was of such a heinous character that the jury returned a death verdict. The fairness of the trial court judge in keeping out alleged admissions of guilt was significant. The Supreme Court reversed the judgment of guilt even under these circumstances. It is interesting to consider that while this woman was under sentence of death during the period it required for her case to be reviewed by the Supreme Court she is now a free woman. Had her case not been appealed, and the law taken its course, she would have been executed. Thus we see the importance of money in assuring an adequate defense.